

HONORABLE THOMAS S. ZILLY

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

PROTECH MINERALS, INC., a  
California Corporation, and CHUL LIM  
CHOE, an individual

Petitioners/  
Counter-  
Defendants,

vs.

TERRY SUZUKI,

Respondent/  
Counter-Plaintiff

No. 2:20-cv-00969-TSZ

DECLARATION OF JACK M. LOVEJOY  
IN SUPPORT OF MOTION TO CONFIRM  
ARBITRATION AWARD AND  
OPPOSITION TO MOTION TO VACATE  
ARBITRATION AWARD

NOTE ON MOTION CALENDAR:

October 2, 2020

Jack Lovejoy declares:

1. I am over the age of eighteen and competent to testify to the matters  
stated herein on personal knowledge.

2. I am counsel of record for Terry Suzuki, the Respondent/Counter-Plaintiff  
in this action.

3. I was counsel for Mr. Suzuki in the case of *Terry Suzuki v. Protech Mineral,  
Inc., and Chui Lim Choe*, JAMS Arbitration No. 1160021925.

1           4.       Attached as Exhibit 1 is a true and correct copy of the March 13, 2020,  
2 Partial Interim Award re Attorney Fees and Costs entered in the case of *Terry Suzuki v.*  
3 *Protech Mineral, Inc., and Chui Lim Choe*, JAMS Arbitration No. 1160021925.  
4

5           I declare under penalty of perjury under the laws of the United State of America  
6 that the foregoing is true and correct.  
7

8           DATED this 21<sup>st</sup> day of August, 2020, at Seattle, Washington.

9                               By: /s/ Jack M. Lovejoy

10                              Jack M. Lovejoy, WSBA No. 36962  
11                              CFL LAW GROUP, LLP  
12                              1001 Fourth Avenue, Suite 3900  
13                              Seattle, Washington 98154  
14                              (206) 292-8800 phone  
15                              E-mail: [jlovejoy@corrchronin.com](mailto:jlovejoy@corrchronin.com)

16                              *Attorney for Respondent/Counter-Plaintiff Terry Suzuki*  
17  
18  
19  
20  
21  
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**CERTIFICATE OF SERVICE**

The undersigned certifies that on August 21, 2020, I electronically filed the foregoing with Clerk of the Court utilizing the ECF Court's system which will send notification of filings to all registered e-service recipients.

I declare under penalty of perjury under the laws of the State of Washington and the United States of America that the foregoing is true and correct.

DATED at Port Orchard, Washington, on August 21, 2020.

By: s/ Irina Kinyon

Irina Kinyon, PP  
Paralegal  
[ikinyon@corrchronin.com](mailto:ikinyon@corrchronin.com)

## **EXHIBIT 1**

**JAMS ARBITRATION  
No. 1160021925**

**Terry Suzuki,**

**Claimant**

**and**

**Protech Minerals, Inc., and Chul Lim Choe,**

**Respondents.**

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**PARTIAL INTERIM AWARD**  
**Re ATTORNEYS FEE AND COSTS**

**Counsel:**

Counsel for Claimant:  
Jack M. Lovejoy Esq.  
Cable Langenbach Kinerk et al  
1000 Second Ave.  
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Counsel for Respondents:  
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**Arbitrator:**

Judge Thomas McPhee (Ret.)  
JAMS

**Case Manager**

Michele Wilson  
JAMS  
1420 Fifth Avenue, Suite 1650  
Seattle, WA 98101  
[mwilson@jamsadr.com](mailto:mwilson@jamsadr.com)  
Direct - 206.292.0457  
Fax – 206.292.9082

**Place of Arbitration: Seattle, Washington**

**Date of Interim Award: January 17, 2020**

THE UNDERSIGNED ARBITRATOR, having been so designated pursuant to stipulation of the parties, and having considered the claims or defenses, evidence, and legal authorities submitted by each party, finds, concludes and issues this Partial Interim Award regarding attorney fees, arbitration fees, and costs, as follows:

This Partial Interim Award addresses the request by Suzuki for an award of attorney fees, arbitration fees, and costs. In his response, Choe does not contest the claim for arbitration fees and costs. A review of those items and the declarations in support of them provides no basis for concluding other than that the requested arbitration fees and costs are reasonable, necessary, and eligible for shifting pursuant to the agreement between the parties. Those items are awarded in the amounts requested.

Suzuki's claim for award of attorney fees is based on the well-established lodestar formula, requiring the party seeking an award to show that the fees sought are based on hours reasonably necessary and actually incurred in the attorney's representation, and charged at a rate customarily charged by attorneys of comparable experience and expertise in the area where the work occurred. The party seeking the award has the burden of showing these elements.

Choe does not contest Suzuki's contention that the hours and rate are reasonable. Nevertheless, when applying the lodestar formula, a judge (and here, an arbitrator) is charged with conducting an independent review to ensure that the standards for a lodestar award have been met. I have conducted the required review, including a summary consideration of hours charged through August 2019, and a line-by-line consideration of the hours charged after August 2019. I find the hours charged are reasonable and necessary.

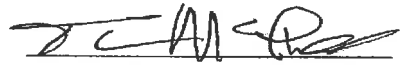
I also find that the rate charged is reasonable. Mr. Lovejoy did not offer evidence by way of report or declaration from other attorneys to establish the reasonableness of his rate. However, that evidence is customarily unnecessary where the rate charged is reasonable on its face in the experience of the judge or arbitrator. Such is the case here; I find that the rate charged is reasonable.

Choe does object to award of attorney fees sought here on the theory that shifting attorney fees can occur only if the prevailing party has paid the amount charged. This theory is not recognized in California law; the cases cited by Choe do not support his contention. In addition, I note that Suzuki's reply declaration dated March 1, 2020, refutes the contention that is the basis for Choe's objection.

Pursuant to the foregoing, Suzuki is awarded attorney fees in the amount of \$95,780, costs of arbitration in the amount of \$17,962.87, and costs in the amount of \$9,352.10.

Seven calendar days after transmission to the parties of this Partial Interim Award, the arbitrator will enter a Final Award that will combine the award made in the Interim Award and in this Partial Interim Award.

DATED: March 11, 2020.

A handwritten signature in black ink, appearing to read 'T. McPhee', written over a horizontal line.

Judge Thomas McPhee (Ret.)  
Arbitrator

**PROOF OF SERVICE BY EMAIL & U.S. MAIL**

Re: Suzuki, Terry vs. Protech Minerals & Choe, Chul  
Reference No. 1160021952

I, Michele Wilson, not a party to the within action, hereby declare that on March 13, 2020, I served the attached Partial Interim Award re: Attorney Fees and Costs on the parties in the within action by Email and by depositing true copies thereof enclosed in sealed envelopes with postage thereon fully prepaid, in the United States Mail, at Seattle, WASHINGTON, addressed as follows:

Jack M. Lovejoy Esq.  
Corr Cronin Michelson et al.  
1001 Fourth Ave.  
Suite 3900  
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Phone: 206-625-8600  
jlovejoy@corrchronin.com  
Parties Represented:  
Terry Suzuki

Avraham N. Wagner Esq.  
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avi@thewagnerfirm.com  
Parties Represented:  
Chul Choe  
Protech Minerals

I declare under penalty of perjury the foregoing to be true and correct. Executed at Seattle,  
WASHINGTON on March 13, 2020.

  
Michele Wilson  
mwilson@jamsadr.com